



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1400/3
MMPR-2
15 Mar 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF CHIEF WARRANT OFFICER 5
[REDACTED] USMC

Ref: (a) JAS:REP:jmp of 25 Nov 1980
(b) MSRB-10-1h of 25 Nov 1980
(c) CMC 1420/3 MMRP-2-hes ltr of 3 Feb 1981

1. Chief Warrant Officer 5 (CWO 5) [REDACTED] has requested his date of rank for his remedial promotion to the rank of gunnery sergeant be backdated to 1977, the time in which he was first eligible for promotion consideration by the Regular Gunnery Sergeant Selection Board. He states that after correction of his record and his promotion to gunnery sergeant, he has successfully been promoted up to his current rank after first view. Therefore, he alleges he should not have been passed over for promotion to gunnery sergeant by the regular gunnery sergeant boards.

2. Records indicate that CWO 5 [REDACTED] was considered for promotion to gunnery sergeant by the 1977, 1978, 1979, and 1980 Regular Gunnery Sergeant Selection Boards and failed selection. Per references (a) and (b), the removal of erroneous adverse material from CWO 5 [REDACTED] (then a staff sergeant) enlisted personnel military records entitled him to receive remedial promotion consideration for promotion to gunnery sergeant. He received remedial consideration for the 1977, 1978, 1979, and 1980 Gunnery Sergeant Selection Boards. The board recommended that he be promoted to gunnery sergeant to rank with his contemporaries selected by the 1980 board. He was given a date of rank of 23 January 1981 which was erroneous and later corrected to a date of rank of 1 January 1981.

3. As stated in reference (c), CWO 5 [REDACTED] has already received remedial promotion consideration for the 1977, 1978, 1979, and 1980 Gunnery Sergeant Selection Boards. As his official record has not changed since receiving remedial promotion consideration; no further action can be taken on CWO 5 [REDACTED] request for remedial promotion consideration at this time. His gunnery sergeant date of rank as January 1981 is correct. Recommend his petition be denied.



RICHARD B. FITZWATER

Assistant Head, Enlisted Promotions
Promotion Branch

By direction of
the Commandant of the Marine Corps



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

LCC:ddj
Docket No: 734-99
11 May 1999

CW05 [REDACTED] USMC
2013 FARRAGUT DRIVE
STAFFORD VA 22554

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 May 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by CMC memorandum 1400/3 MMPR-2 of 15 March 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure